

रजिस्ट्री सं० डी०एल० -33004 / 98

REGISTERED NO. DL-33004/98



भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

भाग II — खण्ड 2

PART II — Section 2

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं० 31] नई दिल्ली, सोमवार, अगस्त 3, 1998 / श्रावण 12, 1920

No. 31] NEW DELHI, MONDAY, AUGUST 3, 1998 / Shravana 12, 1920

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

LOK SABHA

The following Bill was introduced in the Lok Sabha on 3rd August, 1998:—

BILL NO. 90 OF 1998

A Bill to provide for the establishment of the institution of Lokpal to inquire into allegations of corruption against public functionaries and for matters connected therewith.

BE it enacted by Parliament in the Forty-ninth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Lokpal Act, 1998.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Short title and
commence-
ment.

Definitions.

2. In this Act, unless the context otherwise requires,—

- (a) "Chairperson" means the Chairperson of the Lokpal;
- (b) "competent authority", in relation to—
 - (i) the Prime Minister, means the House of the People;
 - (ii) a member of the Council of Ministers, other than the Prime Minister, means the Prime Minister;
 - (iii) a member of Parliament, other than a Minister, means the Council of States in the case of a member of that Council and the House of the People in the case of a member of that House;
- (c) "complaint" means a complaint alleging that a public functionary has committed any offence punishable under the Prevention of Corruption Act, 1988;
- (d) "Lokpal" means the institution established under section 3;
- (e) "Member" means a Member of the Lokpal;
- (f) "prescribed" means prescribed by rules made under this Act;
- (g) "public functionary" means a person who—
 - (i) holds or has held the office of the Prime Minister, Minister, Minister of State or Deputy Minister of the Union;
 - (ii) is or has been a Member of either House of Parliament.

49 of 1988.

CHAPTER II

MACHINERY FOR INQUIRIES

Establishment of Lokpal

3. (1) As from the commencement of this Act, there shall be established, for the purpose of making inquiries in respect of complaints under this Act, an institution to be called the "Lokpal".

(2) The Lokpal shall consist of—

- (a) a Chairperson who is or has been a Chief Justice or a Judge of the Supreme Court;
- (b) two Members who are or have been the Judges of the Supreme Court or the Chief Justices of the High Courts.

(3) The Chairperson and every other Member shall, before entering upon his office, make and subscribe before the President, or a person appointed in that behalf by the President, an oath or affirmation in the form set out in the Schedule.

Appointment of Chairperson and other Members.

4. (1) The Chairperson and other Members shall be appointed by the President by warrant under his hand and seal:

¹ Provided that every appointment under this sub-section shall be made after obtaining

the recommendations of a Committee consisting of—

- | | | |
|--|---|-----------|
| (a) the Vice-President of India | — | Chairman; |
| (b) the Prime Minister | — | member; |
| (c) the Speaker of the House of the People | — | member; |
| (d) the Minister in-charge of the Ministry of Home Affairs in the Government of India | — | member; |
| (e) the Leader of the House other than the House in which the Prime Minister is a member of Parliament | — | member; |
| (f) the Leader of the Opposition in the House of the People | — | member; |
| (g) the Leader of the Opposition in the Council of States | — | member; |

Provided further that no sitting Judge of the Supreme Court or sitting Chief Justice of a High Court shall be appointed except after consultation with the Chief Justice of India.

(2) No appointment of a Chairperson or a Member shall be invalid merely by reason of any vacancy in the Committee.

5. The Chairperson or a Member shall not be a member of Parliament or a member of the Legislature of any State or Union territory and shall not hold any office of trust or profit (other than his office as the Chairperson or a Member) or be connected with any political party or carry on any business or practise any profession and accordingly, before he enters upon his office, a person appointed as the Chairperson or a Member, as the case may be, shall, if—

Chairperson and Members to be ineligible to hold other office

- (a) he is a member of Parliament or of the Legislature of any State or Union territory, resign such membership; or
- (b) he holds any office of trust or profit, resign from such office; or
- (c) he is connected with any political party, sever his connection with it; or
- (d) he is carrying on any business, sever his connection (short of divesting himself of ownership) with the conduct and management of such business; or
- (e) he is practising any profession, cease to practise such profession.

6. (1) The Chairperson and every other Member shall hold office as such for a term of three years from the date on which he enters upon his office or until he attains the age of seventy years, whichever is earlier:

Term of office and other conditions of service of Chairperson and Members.

Provided that he may—

- (a) by writing under his hand addressed to the President, resign his office; or
- (b) be removed from his office in the manner provided in section 7.

(2) On ceasing to hold office, the Chairperson and every other Member shall be ineligible for—

- (i) reappointment in the Lokpal; and
- (ii) further employment to any office of profit under the Government of India or the Government of a State.

(3) The salary, allowances and other conditions of service of—

- (i) the Chairperson shall be the same as those of the Chief Justice of India;
- (ii) other Members shall be the same as those of a Judge of the Supreme Court:

Provided that such salary shall be in addition to any pension to which the Chairperson or a Member may be entitled in respect of any previous service under the Government of India or under the Government of a State and no deduction shall be made from such salary on the ground of his having received any retirement gratuity, or on the ground that he received the commuted value of a portion of the pension in respect of his previous service:

Provided further that the salary, allowances and pension payable to, and other conditions of service of, the Chairperson and other Members shall not be varied to his disadvantage after his appointment.

Removal of
Chairperson or
Members.

7. The Chairperson or a Member shall not be removed from his office except by an order made by the President on the ground of proved misbehaviour or incapacity after an inquiry made by a Committee consisting of the Chief Justice of India and two other Judges of the Supreme Court next to the Chief Justice in seniority, in which the Chairperson or the Member had been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges.

Member to act
as Chairperson
or to discharge
his functions in
certain circum-
stances.

8. (1) In the event of the occurrence of any vacancy in the office of the Chairperson by reason of his death, resignation or otherwise, the President may, by notification, authorise one of the Members to act as the Chairperson until the appointment of a new Chairperson to fill such vacancy.

(2) When the Chairperson is unable to discharge his functions owing to absence on leave or otherwise, such one of the Members as the President may, by notification, authorise in this behalf, shall discharge the functions of the Chairperson until the date on which the Chairperson resumes his duties.

Staff of Lokpal.

9. (1) The Lokpal shall, for the purpose of assisting it in the discharge of its functions (including verification and inquiries in respect of complaints) under this Act, appoint a Secretary and such other officers and employees as the President may determine, from time to time, in consultation with the Lokpal.

(2) Without prejudice to the provisions of sub-section (1), the Lokpal may, for the purpose of dealing with any complaints or any classes of complaints, secure—

(i) the services of any officer or employee or investigating agency of the Central Government or a State Government with the concurrence of that Government, or

(ii) the services of any other person or agency.

(3) The terms and conditions of service of the officers and employees referred to in sub-section (1) and of the officers, employees, agencies and persons referred to in sub-section (2) (including such special conditions as may be considered necessary for enabling them to act without fear or favour in the discharge of their functions) shall be such as the President may determine, from time to time, in consultation with the Lokpal.

(4) In the discharge of their functions under this Act, the officers and employees referred to in sub-section (1) and the officers, employees, agencies and persons referred to in sub-section (2) shall be subject to the exclusive administrative control and direction of the Lokpal.

CHAPTER III

JURISDICTION AND PROCEDURE IN RESPECT OF INQUIRIES

Junsdiction of
Lokpal

10. (1) Subject to the other provisions of this Act, the Lokpal shall inquire into any matter involved in, or arising from, or connected with, any allegation made in a complaint.

(2) The Lokpal may inquire into any act or conduct of any person other than a public functionary in so far as it considers it necessary so to do for the purpose of its inquiry into any such allegation:

Provided that the Lokpal shall give such person a reasonable opportunity of being heard and to produce evidence in his defence.

60 of 1952 (3) No matter in respect of which a complaint may be made under this Act shall be referred for inquiry under the Commissions of Inquiry Act, 1952.

11. (1) The Lokpal shall not inquire into any matter concerning any person if the Chairperson or any other Member has any bias in respect of such matter or person and if any dispute arises in this behalf, the President shall, on an application made by the party aggrieved, obtain, in such manner as may be prescribed, the opinion of the Chief Justice of India and decide the dispute in conformity with such opinion.

Matters not subject to jurisdiction of Lokpal.

(2) The Lokpal shall not inquire into any complaint if the complaint is made after the expiry of ten years from the date on which the offence mentioned in such complaint is alleged to have been committed.

12. (1) Any person other than a public servant may make a complaint under this Act to the Lokpal.

Complaints.

Explanation.—For the purpose of this sub-section, “public servant” means—

(a) any person who is a member of a Defence service or of a civil service of the Union or a State or of an all-India service or holds any post connected with Defence or any civil post under the Union or a State;

(b) any person in the service or pay of a local authority, a corporation established by or under a Central, Provincial or State Act or a Government company, as defined in section 617 of the Companies Act, 1956;

(c) any person in the service of any other institution, concern or undertaking which is established by or under a Central, Provincial or State Act or which is controlled, or financed wholly or substantially by funds provided, directly or indirectly, by the Central Government or a State Government.

(2) The complaint shall be in the prescribed form and shall set forth particulars of the offence alleged and shall be accompanied by fees prescribed, if any, an affidavit in support of such particulars and a certificate in the prescribed form in respect of the deposit under sub-section (3) or, if the complainant is unable to make the deposit, an application for exemption from the requirement as to such deposit.

(3) The complainant shall deposit such sum of money in such manner and with such authority or agency as may be prescribed for disposal under section 25.

(4) Notwithstanding anything contained in the foregoing sub-sections, any letter written to the Lokpal or, as the case may be, the appropriate authority, by a person in any jail or other place of custody or in any asylum or other place for insane persons may, if the Lokpal or, as the case may be, the appropriate authority is satisfied that it is necessary so to do, be treated as a complaint made in accordance with the provisions of this section.

(5) Notwithstanding anything contained in any other enactment, it shall be the duty of a police officer or other person in-charge of any jail or other place of custody or of any asylum or other place for insane persons to forward, without opening, any letter addressed to the Lokpal or the appropriate authority by a person imprisoned or detained in such jail, place of custody, asylum or other place, to the Lokpal or the appropriate authority without delay.

Explanation.—For the purposes of this section, “the appropriate authority” means any of the authorities which the Lokpal may, by general or special order, in writing, determine to be the appropriate authorities.

Preliminary
scrutiny of
complaints by
Lokpal.

13. (1) If the Lokpal is satisfied, after considering a complaint and after making such verification as it deems appropriate that—

(a) the complaint is not made within a period of ten years as specified in sub-section (2) of section 11; or

(b) the complaint is manifestly false and vexatious,

the Lokpal shall dismiss the complaint after recording its reasons therefor and communicate the same to the complainant and to the competent authority.

(2) The procedure for verification in respect of a complaint under sub-section (1) shall be such as the Lokpal deems appropriate in the circumstances of the case and in particular, the Lokpal may, if it deems it necessary so to do, call for the comments of the public functionary concerned.

Procedure in
respect of
inquiries.

14. (1) If, after the consideration and verification under section 13 in respect of a complaint, the Lokpal proposes to conduct any inquiry, it—

(a) shall forthwith forward a copy of the complaint to the competent authority;

(b) may make such orders as to the safe custody of documents relevant to the inquiry as it deems fit;

(c) shall, at such time as it considers appropriate, forward a copy of the complaint to the public functionary concerned and afford him an opportunity to represent his case.

(2) Every inquiry shall be conducted by the Chairperson and the Members sitting jointly and the place in which such inquiry is conducted shall be deemed to be an open court to which the public generally may have access so far as the same can conveniently contain them:

Provided that in exceptional circumstances and for reasons to be recorded in writing, such inquiry may be conducted *in camera*.

(3) The Lokpal shall hold every such inquiry as expeditiously as possible and in any case complete the inquiry within a period of six months from the date of receipt of the complaint:

Provided that the Lokpal may, for reasons to be recorded in writing, complete the inquiry within a further period of six months.

(4) Save as aforesaid, the procedure for conducting any such inquiry shall be such as the Lokpal considers appropriate in the circumstances of the case.

Evidence.

15. (1) Subject to the provisions of this section, for the purpose of any inquiry (including the verification under section 13), the Lokpal—

(a) may require any public servant or any other person who, in its opinion, is able to furnish information or produce documents relevant to such inquiry, to furnish any such information or produce any such document;

(b) shall have all the powers of a civil court while trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters, namely:—

(i) summoning and enforcing the attendance of any person and examining him on oath;

(ii) requiring the discovery and production of any document;

(iii) receiving evidence on affidavits;

(iv) requisitioning any public record or copy thereof from any court or office;

(v) issuing commissions for the examination of witnesses or documents; and

(vi) such other matters as may be prescribed.

45 of 1860.

(2) A proceeding before the Lokpal shall be deemed to be a judicial proceeding within the meaning of section 193 of the Indian Penal Code.

(3) No obligation to maintain secrecy or other restriction upon the disclosure of information obtained by or furnished to Government or any public servant, whether imposed by any enactment or by any provision of law whatever shall apply to the disclosure of information for the purposes of any inquiry (including the verification under section 13) under this Act.

(4) The Government or any public servant shall not be entitled, in relation to any such inquiry or verification under section 13 to any such privilege in respect of the production of documents or the giving of evidence as is allowed by any enactment or by any provision of law whatever in legal proceedings.

45 of 1860.

Explanation.—For the purposes of this section, “public servant” shall have the same meaning as in section 21 of the Indian Penal Code.

16. (1) If the Lokpal has reason to believe that any document which, in its opinion, will be useful for, or relevant to, any inquiry under this Act, are secreted in any place, it may authorise any officer subordinate to it, or any officer of an investigating agency referred to in sub-section (2) of section 9, to search for and to seize such documents.

Search and seizure.

(2) If the Lokpal is satisfied that any document seized under sub-section (1) would be evidence for the purpose of any inquiry under this Act and that it would be necessary to retain the document in its custody, it may so retain the said document till the completion of such inquiry:

Provided that where any document is required to be returned, the Lokpal shall return the same after retaining copies of such document duly authenticated thereof.

2 of 1974.

(3) The provisions of the Code of Criminal Procedure, 1973, relating to searches shall, so far as may be, apply to searches under this section subject to the modification that sub-section (5) of section 165 of the said Code shall have effect as if for the word “Magistrate”, wherever it occurs, the words “Lokpal or any officer authorised by it” were substituted.

17. (1) After the conclusion of inquiry, the Lokpal shall determine whether all or any of the offences alleged in the complaint have or has been proved to its satisfaction and by report in writing shall communicate its findings to the complainant, the public functionary and the competent authority.

Reports.

(2) The Speaker, in the case of the Prime Minister or a member of the House of the People and the Chairman of the Council of States in the case of a member of that Council

shall, as soon as may be after the receipt of report under sub-section (1), cause the same to be laid before the House of the People, or the Council of States, as the case may be, while it is in session, and if the House of the People or the Council of States, as the case may be, is not in session, within a period of one week from the reassembly of the said House or the Council, as the case may be.

(3) The competent authority shall examine the report forwarded to it under sub-section (1) and communicate to the Lokpal, within a period of ninety days from the date of receipt of the report, the action taken or proposed to be taken on the basis of the report.

(4) The Lokpal shall present annually to the President a consolidated report on the administration of this Act and the President shall, as soon as may be after and in any case not later than ninety days from the receipt of such report, cause the same, together with an explanatory memorandum, to be laid before each House of Parliament.

Explanation.—In computing the period of ninety days referred to in this sub-section, any period during which Parliament or, as the case may be, either House of Parliament, is not in session, shall be excluded.

CHAPTER IV

DECLARATION OF ASSETS AND LIABILITIES

Declaration of
assets by
members of
Parliament.

18. (1) Every member of Parliament shall furnish a return of all assets owned by him and members of his family and all liabilities incurred by him and the members of his family before the Lokpal within a period of ninety days, from the date he enters upon his office and thereafter every year within a period of ninety days from the commencement of each financial year in such form as may be prescribed.

Explanation.—For the purpose of this sub-section, the family shall include the spouse and dependent children of such Member.

(2) The Lokpal shall report the details of returns filed under sub-section (1) to the Speaker of the House of the People or the Chairman of the Council of States, as the case may be.

(3) If a member of Parliament does not furnish a return under sub-section (1) or furnishes a return which is false in material particulars or furnishes a return after the expiry of the period specified in that sub-section, the Lokpal shall make a complaint in writing to the Speaker in the case of a member of the House of the People or to the Chairman of the Council of States in the case of a member of the Council of States.

(4) If a member of Parliament fails to furnish a return under sub-section (1), he shall not sit or vote as a member of either House of Parliament until he furnishes such return and a written communication is received by the Speaker or the Chairman, as the case may be, from the Lokpal to that effect.

CHAPTER V

MISCELLANEOUS

Expenditure on
Chairperson
and Members
to be charged
on the
Consolidated
Fund of India

19. The salaries, allowances and pensions payable to, or in respect of, the Chairperson and Members of the Lokpal, shall be expenditure charged on the Consolidated Fund of India.

Intentional
insult or
interruption to
Lokpal.

20. (1) Whoever intentionally offers any insult, or causes any interruption, to the Lokpal while the Lokpal or any of its Members is making any verification or conducting any inquiry under this Act, shall be punished with simple imprisonment for a term which may extend to six months, or with fine, or with both.

2 of 1974. (2) The provisions of sub-section (2) of section 199 of the Code of Criminal Procedure, 1973, shall apply in relation to an offence referred to in sub-section (1) as they apply in relation to an offence referred to in sub-section (2) of the said section, subject to the modification that no complaint in respect of such offence shall be made by the Public Prosecutor except with the previous sanction of the Lokpal.

2 of 1974. 21. (1) When any such offence as is described in sub-section (1) of section 20 is committed in the view or presence of the Lokpal, the Lokpal may cause the offender to be detained in custody and may, at any time on the same day, take cognizance of the offence and, after giving the offender a reasonable opportunity of showing cause why he should not be punished under this section, try such offender summarily, so far as may be, in accordance with the procedure prescribed for summary trials under the Code of Criminal Procedure, 1973, and sentence him to simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both.

Power of Lokpal to try certain offences.

(2) In every case tried under this section, the Lokpal shall record the facts constituting the offence with the statement (if any) made by the offender as well as the finding and the sentence.

(3) Any person convicted on a trial held under this section may appeal to the Supreme Court.

2 of 1974. (4) The provisions of this section shall have effect notwithstanding anything contained in the Code of Criminal Procedure, 1973.

22. (1) Every person who makes any complaint which is held by the Lokpal to be false shall be punishable as provided in sub-section (2).

Action in case of false complaints.

2 of 1974. (2) When any offence under sub-section (1) is committed, the Lokpal may take cognizance of the offence and after giving the offender a reasonable opportunity of showing cause why he should not be punished for such offence, try such offender summarily, so far as may be, in accordance with the procedure prescribed for summary trials under the Code of Criminal Procedure, 1973 and sentence him to imprisonment for a term which shall not be less than one year but which may extend to three years and also to fine which may extend to fifty thousand rupees and may also award, out of the amount of fine, to the public functionary against whom such false complaint has been made, such amount of compensation as the Lokpal thinks fit.

2 of 1974. 23. Subject to the other provisions of this Act and subject to the modification that for the purpose of transfer of any case under section 22, the provisions of section 406 of the Code of Criminal Procedure, 1973, shall alone apply, the provisions of the said Code shall apply to the proceedings before the Lokpal under section 22 and for the purposes of the said provisions of that Code and the said proceedings, the Lokpal shall be deemed to be a Court of Session and shall have all the powers of a Court of Session.

Application of Act 2 of 1974.

24. (1) The President may, by order in writing and subject to such conditions or limitations as may be specified in the order, require the Lokpal to inquire into any allegations (being an allegation in respect of which a complaint may be made) specified in the order in respect of a public functionary and subject to the provisions of section 13, the Lokpal shall comply with such order.

Conferment of additional functions on Lokpal.

(2) When the Lokpal is to make any inquiry under sub-section (1), the Lokpal shall exercise the same powers and discharge the same functions as it would in the case of any inquiry made on a complaint under this Act and the provisions of this Act (except section 22) shall apply accordingly.

Disposal of deposit and payment of compensation or reward.

25. (1) The sum deposited by a complainant in pursuance of the provisions of section 12 shall,—

(a) in a case where the complaint is dismissed under sub-section (1) of section 13, stand forfeited to the Central Government;

(b) if the Lokpal, for reasons to be recorded in writing so directs, be utilised for compensating the public functionary complained against; and

(c) in any other case, be refunded to the complainant.

(2) If the Lokpal is satisfied that—

(a) all or any of the allegations made in a complaint have or has been substantiated either wholly or partly; and

(b) having regard to the expenses incurred by the complainant in relation to the proceedings in respect of such complaint and all other relevant circumstances of the case the complainant deserves to be compensated or rewarded,

the Lokpal shall determine the amount which shall be paid to the complainant by way of such compensation or reward and the Lokpal shall determine the person by whom the said compensation or reward shall be paid after giving that person a reasonable opportunity of being heard.

Persons likely to be prejudicially affected to be heard.

26. If, at any stage of the inquiry, the Lokpal—

(a) considers it necessary to inquire into the conduct of any person; or

(b) is of opinion that the reputation of any person is likely to be prejudicially affected by the inquiry,

the Lokpal shall give to that person a reasonable opportunity of being heard in the inquiry and to produce evidence in his defence:

Provided that nothing in this section shall apply where the credit of a witness is being impeached.

Protection of action taken in good faith.

27. (1) No suit, prosecution or other legal proceedings shall lie against the Lokpal or against any officer, employee, agency or person referred to in section 9, in respect of anything which is in good faith done or intended to be done under this Act.

(2) Save as otherwise provided in this Act, no proceedings or decision of the Lokpal shall be called in question in any Court.

Power to delegate.

28. The Lokpal may, by general or special order in writing, and subject to such conditions and limitations as may be specified therein, direct that any powers conferred or duties imposed on it by or under this Act [except the powers under the proviso to sub-section (3) of section 12, the power to dismiss a complaint under sub-section (1) of section 13, the powers to close cases and make reports under section 18 and the powers under section 23] may also be exercised or discharged by the officers, employees and agencies referred to in section 9, as may be specified in the order.

Power to make rules.

29. (1) The President may, by notification in the Official Gazette, make rules for the purpose of carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the manner in which the President shall obtain the opinion of the Chief Justice of India under sub-section (1) of section 11;

(b) the form in which complaints may be made under sub-section (2) of section 12 and the fees, if any, which may be charged in respect thereof;

(c) the manner in which and the authorities or agencies with whom deposits shall be made under sub-section (3) of section 12 and the form in which certificates shall be furnished in respect of such deposits;

(d) the matters referred to in sub-clause (vi) of clause (b) of sub-section (1) of section 15;

(e) the form in which return has to be furnished under sub-section (1) of section 18;

(f) any other matter which is to be or may be prescribed.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule, or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

30. For the removal of doubts, it is hereby declared that nothing in this Act shall operate to confer or enable the conferring of any jurisdiction on the Lokpal to make any inquiry—

Removal of doubts.

(a) into any allegation against or any act or conduct of—

(i) the President, the Vice-President or the Speaker of the House of the People;

(ii) the Chief Justice or any other Judge of the Supreme Court;

(iii) the Comptroller and Auditor-General of India, the Chief Election Commissioner or other Election Commissioner or the Chairman or any other Member of the Union Public Service Commission; or

(b) upon its own knowledge or information.

31. Nothing contained in this Act shall be construed as affecting the constitution of, or the continuance of functioning or exercise of powers by, any Commission of Inquiry appointed under the Commissions of Inquiry Act, 1952 before the commencement of this Act and no complaint shall be made under this Act in respect of any matter referred for inquiry to such Commission before such commencement.

Saving.

60 of 1952

32. In section 3 of the Commissions of Inquiry Act, 1952, in sub-section (1), for the words "The appropriate Government may", the words, brackets and figures "Subject to the provisions of sub-section (3) of section 10 of the Lokpal Act, 1998, the appropriate Government may" shall be substituted.

Consequential amendment of Act 60 of 1952.

THE SCHEDULE

[See section 3(3)]

I,having been appointed Chairperson/Member of the Lokpal, do swear in the name of God/solemnly affirm that I will bear true faith and allegiance to the Constitution of India as by law established, that I will duly and faithfully and to the best of my ability, knowledge and judgment perform the duties of my office without fear or favour, affection or ill-will.

STATEMENT OF OBJECTS AND REASONS

In its interim report on the "Problem of Redress of Citizens' Grievances" submitted in 1966, the Administrative Reforms Commission recommended, *inter alia*, the setting up of an institution of Lokpal.

2. To give effect to this recommendation of the Administrative Reforms Commission, a Bill called the "Lokpal and the Lokayuktas Bill, 1968" was introduced in the Fourth Lok Sabha in 1968. The Bill was considered by a Joint Committee of the two Houses of Parliament and the Bill, as reported by the Joint Committee, was passed by the Lok Sabha in 1969. While this Bill was pending in Rajya Sabha, the Fourth Lok Sabha was dissolved and consequently, the Bill lapsed. In 1971, the Bill passed by the previous Lok Sabha was re-introduced in the Lok Sabha as the "Lokpal and Lokayuktas Bill, 1971". This Bill also lapsed on the dissolution of the Fifth Lok Sabha.

3. A fresh Bill called the "Lokpal Bill, 1977" was introduced in the Lok Sabha in 1977. This Bill was referred to a Joint Committee of both the Houses of Parliament which submitted its report in July, 1978. When the Bill, as reported by the Joint Committee, was under consideration of the Lok Sabha, the Lok Sabha was prorogued and was subsequently dissolved. Consequently that Bill also lapsed.

4. The Lokpal Bill, 1985 was introduced in the Lok Sabha and subsequently withdrawn. The Lokpal Bill, 1989 which sought to include the office of Prime Minister also within the jurisdiction of the Lokpal which was to be a three Member body lapsed with the dissolution of the Lok Sabha.

5. The Lokpal Bill, 1996 was introduced in the Lok Sabha on 13-9-1996. Thereafter, it was referred to the Department-related Parliamentary Standing Committee on Home Affairs for examination and report. The Standing Committee presented its report to the Parliament on 9-5-1997. Before the Government could finalise its stand on the various recommendations of the Committee, the Lok Sabha was dissolved on 4-12-1997 and the Bill also lapsed.

6. The Lokpal Bill, 1998 provides for setting up the office of Lokpal with a Chairperson and two Members for a fixed tenure. With a view to ensuring that the Lokpal is able to act independently and discharge its functions without fear or favour, the Bill provides that the Chairperson/Member of Lokpal shall not be removed from his office, except by an order made by the President on the ground of proved misbehaviour or incapacity after an inquiry made by a Committee consisting of the Chief Justice of India and two other Judges of the Supreme Court next to the Chief Justice in seniority in which the Member had been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges. It is also provided that the Chairperson and other Members shall be appointed by the President by warrant under his hand and seal on the recommendations of a Committee consisting of the Vice-President of India, as Chairman, Prime Minister, Speaker of Lok Sabha, Minister of Home Affairs, Leader of the House to which the Prime Minister does not belong, Leader of Opposition in Lok Sabha and Leader of Opposition in Rajya Sabha as members. Under the Scheme of the Bill, the Lokpal will inquire into complaints alleging that a public functionary as defined in the Bill has committed an offence punishable under the Prevention of Corruption Act, 1988 and the expression "public functionary" covers, Prime Minister, Ministers, Ministers of State, Deputy Ministers and Members of Parliament. It seeks to carry out in this respect the object and purpose of the recommendations of the Administrative Reforms Commission for enabling the Citizen to have recourse to a convenient and effective forum for determination of complaints and thereby save him from pursuing his remedy through the process of Courts, which may prove expensive or dilatory and may not facilitate

in speedy determination. The Bill also seeks to make special provisions for discouraging frivolous, vexatious and false complaints. The Bill also provides for declaration of assets and liabilities by Members of Parliament and their family members, annually. The Notes on clauses explain the provisions contained in the Bill.

7. The Bill seeks to achieve the above objects.

NEW DELHI;
The 23rd July, 1998.

KADAMBUR M.R. JANARTHANAN.

Notes on clauses

Clause 2 defines the various expressions used in the Bill.

Clause 3 provides for the establishment of Lokpal consisting of a Chairperson and two Members. The Chairperson will be a person who is or has been the Chief Justice or a Judge of the Supreme Court. The Member shall be a person who is, or has been, a Judge of the Supreme Court or the Chief Justice of the High Court.

Clause 4 provides that the Chairperson and other Members shall be appointed after obtaining the recommendations of a Committee consisting of the Vice-President of India, the Prime Minister, the Speaker of the House of the People, the Home Minister, the Leaders of the Opposition in the House of the People and the Council of States, and the Leader of the House in which the Prime Minister is a member of Parliament.

Clause 5 provides that the Chairperson and the Members shall be ineligible to hold other offices.

Clause 6 provides for the term of office and other conditions of service of the Chairperson and Members of the Lokpal. The conditions of service, salary, allowances and pension of the Chairperson shall be the same as those of the Chief Justice of India. The salary of other Members shall be the same as those of a Judge of the Supreme Court. After a person is appointed as the Chairperson or a Member, his conditions of service, allowances and pension payable to him shall not be varied to his disadvantages.

Clause 7 deals with the removal of Chairperson or Members.

Clause 8 provides that one of the Members shall act as the Chairperson or discharge his functions in certain circumstances.

Clause 9 deals with the staff of the Lokpal and the powers of the Lokpal to utilise the services, *inter alia*, of any investigating agencies of the Government and of any other agencies.

Clause 10 deals with the jurisdiction of the Lokpal. Sub-clause (1) provides that the Lokpal may inquire into any matter involved in, or arising from, or connected with any allegation made in a complaint. Sub-clause (2) provides that the Lokpal may conduct an inquiry into any act or conduct of any person other than the public functionary concerned if it considers necessary to do so for the purposes of his inquiry into any allegation. Sub-clause (3) provides that no matter in respect of which a complaint may be made under this Bill shall be referred for inquiry under the Commissions of Inquiry Act, 1952.

Clause 11 provides that the Lokpal shall not inquire into any matter concerning any person if the Chairperson or any other Member has any bias in respect of such matter or person. It also provides that the Lokpal shall not inquire into any complaint made after the expiry of a period of ten years from the date of the commission of the offence mentioned in the complaint.

Clause 12 provides that any person other than a public servant as defined therein may file a complaint which shall be in the prescribed form and shall be accompanied by an affidavit. This clause also provides for a deposit by the complainant.

Clause 13 provides for preliminary scrutiny of complaints by the Lokpal.

Clause 14 provides for the procedure for making inquiries into the complaints by the Lokpal. It also provides that the Lokpal shall complete the inquiry within six months from the date of the receipt of the complaint, which could be extended for a further period of six months by the Lokpal for reasons to be recorded in writing.

Clause 15 provides that the Lokpal shall have all the powers of civil court for summoning and enforcing the attendance, receiving evidence and issuing commissions for the examination of witnesses or documents. It also provides the proceedings before the Lokpal shall be deemed to be judicial proceedings within the meaning of section 193 of the Indian Penal Code.

Clause 16 seeks to confer powers of search and seizure on the Lokpal.

Clause 17 relates to reports of the Lokpal and action taken thereon. Sub-clause (1) provides that when after inquiry the Lokpal shall communicate its findings to the complainant, the public functionary and the competent authority. It also provides that the annual consolidated report shall be presented by the Lokpal to the President.

Clause 18 provides for declaration of assets and liabilities by Members of Parliament.

Clause 19 provides that the salaries, allowances and pensions payable to the Chairperson and Members of the Lokpal shall be charged on the Consolidated Fund of India.

Clause 20 provides for punishment for intentional insult or interruption to the Lokpal.

Clause 21 seeks to confer powers on the Lokpal to try summarily and punish those persons who intentionally offers any insult, or causes any interruption, to the Lokpal.

Clause 22 provides for action to be taken by the Lokpal in the case of false complaints.

Clause 23 provides for application of certain provisions of the Code of Criminal Procedure, 1973 to the proceedings before the Lokpal.

Clause 24 provides for the conferment of additional functions by the President on the Lokpal.

Clause 25 provides for the disposal of deposits made by the complainants.

Clause 26 provides that if at any stage of inquiry, any person is likely to be prejudicially affected should be afforded an opportunity of being heard.

Clause 27 provides for protection from legal proceedings, etc., for the action taken in good faith.

Clause 28 provides for delegation of powers by the Lokpal.

Clause 29 provides for the power of the President to make rules.

Clause 30 seeks to make it clear that the Lokpal shall not have any jurisdiction to conduct any inquiry into any allegation against or any act or conduct of the President, the Vice-President or the Speaker of the House of the People, the Chief Justice or any other Judge of the Supreme Court, the Comptroller and Auditor-General of India, the Chief Election Commissioner or other Election Commissioners or the Chairman or any other Member of the Union Public Service Commission.

Clause 31 provides that the provisions of this Bill shall not affect the constitution of the continuance of any Commission of Inquiry appointed under the Commissions of Inquiry Act, 1952 before the coming into force of the provisions of this Bill.

Clause 32 seeks to make a consequential amendment in the Commissions of Inquiry Act, 1952.

FINANCIAL MEMORANDUM

Sub-clause (1) of clause 3 of the Bill provides for the appointment of the Lokpal consisting of a Chairperson and two other Members. Sub-clause (3) of clause 6 of the Bill envisages that the salary, allowances and all other conditions of service of, the Chairperson shall be the same as those of the Chief Justice of India and the Members as those of the Judge of the Supreme Court. It also provides that the salary payable to the Members shall be in addition to any pension and pension equivalent of other pensionary benefits to which the Member may be entitled to in respect of any previous service under the Government of India or under the Government of a State.

2. Sub-clause (1) of clause 9 provides that the Lokpal shall appoint a Secretary and such other officers and employees as the President may determine, from time to time, in consultation with Lokpal to assist him in the discharge of his functions. Sub-clause (2) of clause 9 empowers the Lokpal to secure for the purpose of dealing with any complaints or any classes of complaints, the services of any officer or employee or investigating agency of the Central Government or a State Government or the service of the officers and employees of the Lokpal and of the officers, employees, agencies and persons referred to in sub-clause (2) of that clause shall be such as the President may determine in consultation with the Lokpal.

3. Clause 19 of the Bill provides that the expenditure on the salaries, allowances and pensions payable to Members shall be charged on or in respect of the Consolidated Fund of India.

4. At this stage, it is not possible to give precise details of the expenditure to be incurred on the Lokpal. It is, however, expected that the Bill, when enacted, will involve as non-recurring expenditure of rupees twenty-five lakh and a recurring expenditure of rupees one crore a year. In case it becomes necessary to construct a building to house the establishment of the Lokpal, additional expenditure of a non-recurring nature of the order of rupees one crore may also be involved.

The Bill if enacted will not incur any other recurring or non-recurring expenditure.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 29 of the Bill empowers the President to make rules for the purpose of carrying into effect the provisions of proposed enactment. The various matters in relation to which such rules may be made have been enumerated in detail under various items of sub-clause (2) of that clause and relate mainly to the form in which complaints may be made and the fees, if any, which may be charged in respect thereof; the manner in which and the authorities or agencies with whom deposits shall be made under sub-clause (3) of clause 12 and the form in which certificate shall be furnished in respect of such deposits under sub-clause (2) of clause 12; and the additional matters in respect of which powers of a civil court may be exercised by the Lokpal. These are matters of detail necessary for effective administration of the provisions of the Bill and it is difficult to provide for all the situations in the Bill itself. The delegation of legislative power is, therefore, of a normal character.

S. GOPALAN,
Secretary-General.